

# **LOCAL AGENCY DECISION MAKING**

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Presented by:

ALEX PELTZER

Alex M. Peltzer has been a Partner of Dooley, Herr, Peltzer & Richardson since 2005. Alex joined DHP&R as a Law Clerk in 1999 and as an attorney in 2001 after being admitted to the California State Bar. He currently serves as the appointed City Attorney for the City of Visalia and is also general counsel to several public irrigation districts in Fresno, Kings & Tulare Counties, including Tulare Irrigation District, Lower Tule River Irrigation District, Kaweah & St. Johns Rivers Association, Deer Creek & Tule River Authority, Porterville Irrigation District, Tea Pot Dome Water District, and others. In addition to public agency law, Alex represents numerous private clients in real property and water matters. Prior to entering the practice of law, Alex was a partner/broker in a commercial real estate firm in Visalia. In addition, Alex served as district director, legislative assistant and press secretary for U.S. Representative Calvin Dooley from 1992 to 1996. In addition to serving as Director of the District Office, based in Hanford, he also served as an aide in the Washington office, responsible for assisting in the development of environmental and foreign affairs policy; maintaining media communications in California and Washington, DC; and speaking for the Congressman at public events throughout the central San Joaquin Valley.

Alex Peltzer  
Dooley, Herr, Peltzer & Richardson  
100 Willow Plaza  
Visalia, CA 93291  
(559) 636-0200  
[apeltzer@dhlaw.net](mailto:apeltzer@dhlaw.net)

UNDERSTANDING THE BASICS OF

# LOCAL AGENCY DECISION- MAKING

# Public Agency Decision-Making is Different

The key thing to understand about public agency decision-making is that it's different. Different from what? It is different from the way individuals make decisions; it's also different from the way private businesses make decisions. That difference is in the fundamental purposes and objectives of those decisions.



## Collective Decision-Making in the Public's Interest

When a public agency makes a decision, the guiding principle must always be what best serves the public's interests, not the personal self-interests of the decision-makers. That is because the very purpose of having public agencies is to provide mechanisms to engage in collective decision-making. The goal of this decision-making is to work through challenges being faced in a community, to provide services and facilities and, through laws, to guide individual behaviors to promote the overall safety, well-being and prosperity of the community.

Another way that public agency decision-making is different is that often the decision-making power is shared. For example, special district governing boards, county boards of supervisors, city councils, school boards and various other public agency boards and commissions make decisions collectively, typically by a vote of the members of those bodies.

The prevalence of shared power and decision-making has important implications.

- **Co-Leaders.** For participants in the decision-making process, shared power and decision-making puts a premium on leadership skills that help one's fellow leaders find common ground.
- **The Public.** For those members of the public desiring to influence the process, shared power and decision-making frequently means having conversations with multiple decision-makers.

- **Reporters.** For the media covering the process, shared power and decision-making means understanding that decision-makers may have diverse perspectives.

Shared decision-making provides checks and balances in the exercise of authority. Such checks and balances maximize the likelihood that decision-making does indeed serve the public's interests.



## Determining the Public's Interests

How do decision-makers and the public determine what course of action in a given situation best serves the interests of the community? There are several ways:

- **Elections.** The public votes to elect representatives to make decisions on their behalf. Well-run campaigns provide fair, relevant and truthful information about the qualifications, values and vision of those who seek public office so the public can elect those whose judgment and opinions they trust and agree with.
- **Decision-Making Processes.** A public agency's decision-making process typically provides a number of opportunities for people to provide input in the process. An important responsibility for public officials is

to listen and consider this input as they decide what course of action best serves the public.

- **Analysis and Management.** Public agencies hire professional staff to provide analysis to elected officials and other decision-makers on the pros and cons of a given course of action. Staff also implements the policies that elected officials and other decision-makers make. Staff is also responsible for day-to-day management of agency functions.
- **Ballot Measures.** In some situations, the voters make the decision themselves. Examples include certain kinds of financial decisions (such as the decision to incur debt or raise certain kinds of revenues). In other cases, the public can insist on being part of the decision-making process through what's called the initiative and referendum process (see page 37). Elected officials may also choose to put issues on the ballot to let the public weigh in, either in an advisory capacity or to make the final decision.

These processes are all means to the end of determining the public's interests. However, as Martin Luther King Jr. observed, in a democracy, the means are the ends. These processes—and the integrity with which one engages in these processes—all have an intrinsic value wholly apart from the resulting outcome.

# Who Does What?

Different kinds of public agencies have responsibility for different kinds of functions. From a member of the public's standpoint, the first task is figuring out what public agency has decision-making responsibility for the issue he or she cares about. For example, complaining to a city government about an issue involving a local fire department will not be effective if the fire department is operated by a special fire district.

Similar problems can occur if an individual is interested in becoming more involved in the community by seeking appointment or election to local public office. If the person is interested in being appointed to a board or commission, or running for public office, then it's important to know the specific responsibilities of the board, commission, or office to be sure it deals with issues that are of the most concern.

In addition, a candidate for election to the governing body of a city or a county needs to realize that such office holders are responsible for making decisions on the full range of issues confronting that agency—not just the ones the individual was originally interested in.

## Types and Responsibilities of Local Agencies

**Counties.** Counties play a dual role in California's system of government. California is divided into 58 counties.

- **Countywide Services.** Counties provide a variety of important county-wide health, welfare and social services that serve all residents within a county. In these respects, counties are part of a statewide system that delivers certain kinds of programs and services to Californians.

Counties' district attorneys work with county sheriffs and city police departments to prosecute crimes.

- **Municipal Services and Regulations.** For those areas that are not within a city (often referred to as the "unincorporated areas" of a county), counties provide law enforcement services through the sheriff's office. For these areas,



counties may also provide such services as fire protection, animal control, parks, recreation, public works (including roads), planning and land use, water, waste water, solid waste, and library—services that are similar to those cities provide within their boundaries (known as the incorporated areas). Sometimes counties and cities provide these services collaboratively. Sometimes these services may be provided by a private company or by a special district.

Counties also have regulatory authority within the unincorporated areas (such as land use planning authority and building code enforcement). This includes the power to adopt regulations to promote the public good within those areas.

#### **For More Information About Counties and County Issues...**

See the California State Association of Counties' website [www.csac.counties.org](http://www.csac.counties.org), including the "California's Counties" tab.

**Cities.** California has nearly 500 cities. Within city boundaries, cities have responsibility for such services as police and fire, animal control, parks, public works, water, waste water, solid waste, and library. Sometimes these services may be provided by the city itself or by the county, a special district or a private company.

Cities also have authority to adopt regulations that promote the public good within city limits. These include regulations relating to land use and building code enforcement.

#### **For More Information about Cities and City Issues...**

See the League of California Cities' website [www.cacities.org](http://www.cacities.org).

### **OTHER TYPES OF PUBLIC AGENCIES CREATED BY COUNTIES AND CITIES**



Counties and cities can also create entities to accomplish particular tasks, such as redevelopment agencies and housing authorities.

**Redevelopment** is a tool created by state law to assist counties and cities in eliminating blight from a designated area, as well as to develop and rehabilitate residential, commercial, industrial and retail property within an area.

**Housing authorities** administer local, state and federal housing programs to provide safe and sanitary residential dwelling accommodations for persons of very low-, low- and moderate-income.

**Special Districts.** Special districts are public agencies created to provide one or more specific services to a community, such as water service, sewer service, parks, fire protection and others.

■ **Dependent Special Districts.**

Sometimes the governing board of either a city or county will also serve as decision-makers for a special district. These kinds of special districts are called “dependent special districts.”

■ **Independent Special Districts.**

Other special districts operate under a locally elected, independent board of directors, which oversees district functions. These kinds of special districts are called “independent special districts.”

Most special districts perform a single function, such as water service, parks and recreation, fire protection, pest abatement or cemetery management.

Other districts have multiple functions, such as community service districts. Some special districts provide services for residents in both cities and counties, while others provide services only for residents who live outside city boundaries in the unincorporated areas.

In California, cities must be located in one county, and city boundaries may not cross county lines. On the other hand, special districts may cross city and county boundaries. For example, the Metropolitan Water District of Southern California serves residents in six different counties and most of the cities within those counties.

**For More Information about Special Districts and Special District Issues...**

See the California Special Districts Association's website [www.csda.net](http://www.csda.net) “About Special Districts” tab.





**Other Kinds of Local Agencies.** Local agencies also join together to accomplish shared objectives.

■ **Joint Powers Authorities (JPAs).**

Local agencies will sometimes enter into agreements to exercise shared powers to provide more effective or efficient government services or to solve a service delivery problem. A JPA may collectively offer any service provided by its member cities and counties. One common form of joint powers authority is one that serves as a form of insurance company for local agencies. Through the joint powers agreement, these agencies pool their resources to promote activities to reduce risk and pool their assets to pay claims against member entities (for example, workers compensation claims). Joint powers authorities typically have their own board of directors (typically public officials appointed by each participating public entity), their own policy development system, and their own management structure.

**For More Information...**

See the California Association of Joint Powers Authorities' website [www.cajpa.org](http://www.cajpa.org).

■ **Councils of Government (COGs).**

A council of government is a particular form of joint powers authority created to engage in certain policy-making activities. The exact combination of duties varies from region to region. The two most prevalent duties are planning-related activities relating to affordable housing and transportation on a regional level. Some councils of government cover one county; others cover multiple counties. Some councils of governments cover such a large area (as in the Southern California area) that local agencies also participate in sub-regional council of government activities as well.

In addition, local agencies will sometimes create a **nonprofit corporation** to perform certain functions for the community. These nonprofits are governed by a board of directors according to an adopted set of bylaws. As with public agencies, there are certain transparency requirements for nonprofit corporations because of their special status.

**For More Information . . .**

See the California Association of Councils of Governments' website [www.calcog.org](http://www.calcog.org).

**Schools.** School districts are responsible for educating children from kindergarten through high school. Some school districts provide pre-school services. Unlike some other states, in California public schools and cities/counties have separately elected governing bodies.



For example, in New York City, the mayor is responsible for the schools. This is not the case in California.

California's public education system also includes community college districts, the California State University system and the University of California system.

This is perhaps the most important thing to understand about California's public education system—it is a multi-leveled, complex system. There are many state laws that determine how schools operate. The availability of funding for schools is also largely determined by the state, through the budget process. Locally elected school boards are a part of this system, as are county offices of education.

## ► KEEPING POWER CLOSEST TO THE PEOPLE: LOCAL AGENCY LOBBYING EFFORTS

From time to time, the state and federal governments take power away from local agencies by adopting legislation that "preempts" local law-making on a particular subject or dictates how a state or local agency must conduct itself. Other times the state and federal governments will cut funding for important services delivered at the local level.



One of the leadership roles for local officials is to weigh in on the wisdom of such decisions by state and federal policymakers. In this way, local officials serve their constituencies by advocating that decision-making authority and resources be maintained at the local level.

Another important aspect of local agency lobbying efforts is to simply provide information to state and federal policy makers and their staffs. Such advocacy may occur through state and nationwide associations of local agencies, such as the California State Association of Counties, the League of California Cities, the National League of Cities and the National Association of Counties. Some local agencies also hire lobbyists to add to the voices of state and national associations; such lobbyists also help advocate on uniquely local issues too.

Keep in mind, however, that state and federal policymakers also need to hear directly from local officials about how legislation and other policy proposals affect local government and communities. Such efforts and information are part of what informs and influences policymaking at the state and federal levels.

## Division of Authority between Federal, State, Regional, and Local Agencies

As part of our democracy, we have created different levels of government based on the scope of their power. The reason this is relevant to understanding local government is that public agencies in different levels of government have responsibilities for different governmental functions.

Sometimes, a higher level of government will assume regulatory or other responsibility for something to the exclusion of regulation by other forms of government. For example, the state legislature may adopt a rule that will restrict what a city or county can do about an issue. This is known as “preemption.” The federal government can do the same thing by adopting a regulation that limits what state or local agencies can regulate.

### Types of Government Entities

- **Federal Government.** At the national level, three branches of government make decisions that generally affect the entire country. Services provided by the federal government include providing for

the defense of our country, regulating interstate commerce, and regulating who can become citizens. The federal government also provides a variety of services and facilities, such as our national highway system and national parks.

Decision-Making at the federal level is divided into three branches or functions:

- 1. The Legislative Branch.** Congress comprises the Senate and the House of Representatives. The legislative branch makes laws that govern conduct and create programs to benefit everyone in the country.
- 2. The Executive Branch.** This is the President and the various federal departments and agencies overseen by the President. The executive branch is generally responsible for implementing or carrying out the laws made by Congress.
- 3. The Judicial Branch.** This is the federal court system, including the Supreme Court. The federal courts resolve disputes over the interpretation of laws Congress passes; they also determine whether conduct violates the federal constitution or laws passed by Congress.



The official website for the federal government is [www.usa.gov](http://www.usa.gov); [www.usa.gov/Agencies/federal.shtml](http://www.usa.gov/Agencies/federal.shtml) is the portal for federal government agencies.

**State Government.** The United States is divided into 50 states. Each state also has a level of government that makes decisions that affect services, facilities, conduct and other matters within the state's geographic boundaries. Like the federal government, states have legislative, executive, and judicial branches. In some states, even though school

district governing boards are locally elected, for many purposes school districts are considered to be part of state government. The official website for California is [www.ca.gov](http://www.ca.gov); [www.ca.gov/About/Government.html](http://www.ca.gov/About/Government.html) is the portal for state government agencies.

- **Regional Entities.** The state may perform its functions through a network of regional entities that implement and enforce state laws. Examples include air quality management districts and regional water quality boards.

### What's in a Name?

Type of Agency	The Governing Body is Called	Presiding Officials Are Called	Other Individual Elected Officials are Called
County	Board of Supervisors	Chair, Vice Chair (Some counties may use the term "President")	Supervisors
Special District	Board of Directors or Board of Trustees	Chair or President, Vice Chair or Vice President	Directors or Trustees
City (also sometimes called a "town")	City Council/Town Council	Mayor (elected or appointed) Vice Chair or Mayor Pro Tem	City or Town Council Members
School District	School Board	Chair or President, Vice Chair or Vice President	Board Members

In other instances, regional governments are created by local governments when they voluntarily come together to form such regional bodies. Examples include councils of governments, often referred to by their acronyms as “COGs”. Such regional governments include the Association of Bay Area Governments (ABAG), the Southern California Association of Governments (SCAG) and joint powers authorities, sometimes referred to as “JPAs.”

Local officials frequently serve as decision-makers on regional bodies in addition to their responsibilities as county, city and special district officials.

- **Local Governments.** These generally include cities, counties and special districts as described on pages 5 to 11.

## Finding Out Who Does What

Residents often find it difficult to determine which public agency is responsible for an issue or matter they care about. Clues can often be found in the government section of the local telephone book, by visiting public agency websites on the Internet, or by visiting the library.

Using an Internet search engine can help locate the website of a particular government department. Many city and county websites also have links to other governmental agencies.

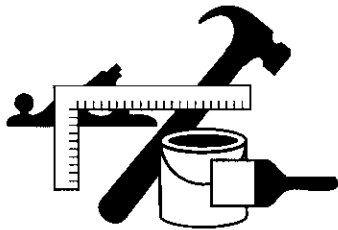
The State of California website, [www.ca.gov/About/Government/State.html](http://www.ca.gov/About/Government/State.html) is a good resource for state agency information. The California website also offers links to local agencies from [www.ca.gov/About/Government/Local.html](http://www.ca.gov/About/Government/Local.html). District offices of state legislators also tend to be helpful in knowing which agency is responsible for what issue in a given area.

For those counties in which it is available, the “211” telephone service can help connect the public with information on social services in a given area. See [www.211.org](http://www.211.org).



## Division of Labor within a Local Public Agency

### Governing Body/Elected Officials



The highest level of leadership of a local public agency is its governing body, composed of individuals elected by the voters within that jurisdiction.

These governing bodies play a number of roles in the process of local governance, depending on the nature of the public agency.

**Presiding Official.** Typically, the members of the governing body select one person from among themselves to serve as the presiding official at meetings. In counties, this individual is called the chair or chairperson of the board of supervisors. In cities, this individual is called the mayor.

In some cities, voters directly elect the mayor. In those cities, besides presiding at council meetings, the mayor may have some additional powers or responsibilities, such as the power to nominate to make appointments to city commissions. In many cities, the position of mayor rotates among the members of the governing body annually, so that all members experience the responsibilities of presiding. In this case, the mayor is selected amongst and by the city council. Most cities also elect a person to play this function when the mayor is absent (sometimes called a “mayor pro tem” or vice mayor).

The presiding official is responsible for running the meeting or hearing, keeping the meeting on track, ensuring that all sides are heard, and bringing the body to a decision. An effective chair will bring a number of skills to the task, including good listening skills, a thorough understanding of the agenda, a sense of fairness, an appreciation of the respective roles of staff versus elected and appointed decision-makers,

patience, and the ability to keep order and move the discussion forward to decision using collaborative decision-making or some other method. These are also helpful skills for all members of the decision-making body to have.

Unlike the President of the United States or the governor of a state, however, most mayors and board chairs do not have the power to “veto” actions of the governing board.

**Legislative Role.** Through city councils and county boards of supervisors, the laws and policies are adopted that determine further the goals and vision of the community and, in certain areas, regulate the conduct of the public. Those laws and policies can promote public health, safety and welfare, including, for example, protecting property, regulating businesses and governing land use – all of which come together to help create and maintain the unique nature and character of the community.



### Examples of Local Legislation

Topic	Example
Public Safety	Curfews, anti-gang measures
Property Protection	Graffiti, code enforcement laws (such as regulation of nuisances, blight, and land uses)
Business Regulations	Rent control, adult entertainment restrictions, parking requirements, business license
Land Use and Building Regulations	Planning and zoning laws, historic preservation, sign regulations
Operational Policies	Instructions to staff on how certain utility and other services are to be operated





**Quasi-Judicial Role.** From time to time, local elected officials also play a judge-like role. This occurs when they (or boards and commissions to which they have delegated this task) apply the agency's adopted policies and standards to a particular situation. An example is when a person applies to engage in a certain use of their property or business operation. The task of the decision-making body is to determine whether the proposed use or business complies with the community's adopted policies and standards. When the decision is made, it is good practice to adopt statements called findings that explain why the application does or does not satisfy these standards.

When the decision-making body is acting in a quasi-judicial role, it will typically conduct a publicized public hearing on the matter. Under such circumstances decision-makers are not only deciders, they are also stewards of a process that must satisfy certain standards for fairness. These standards require, for example, that the person applying for the permit be heard and given an opportunity to present his or her case before the deciding officials.

For more information about public hearings, see page 32.

See *Fair Process Requirements in Adjudicative Decision-Making* at [www.ca-ilg.org/everydayethics](http://www.ca-ilg.org/everydayethics).

## ► "MINISTERIAL" DECISIONS

Some decisions involve less discretion. A "ministerial" decision is a matter that must be approved if certain specific standards are met. Because the decision-maker has very little leeway or discretion when making "ministerial" decisions, these kinds of decisions are frequently referred to as mandatory and "nondiscretionary." Sometimes those decisions can be made by the appropriate local agency staff, such as a department head.

For example, a building permit must be approved if all of the conditions and requirements imposed in various building codes have been satisfied. It is approved through a "ministerial" decision.

## Boards and Commissions

Many counties and cities involve members of the community in the decision-making process on particular issues. Those individuals serve on boards or commissions that advise the city council or board of supervisors on permits, applications, policy and other matters. In some cases, they are empowered to make decisions.

Many cities and counties, for example, have a separate planning commission. Planning commissions provide policy advice and feedback to the county board of supervisors or city council on land use and development issues. They also can play a decision-making role on some permit applications and other matters, depending on how a public entity's rules and procedures are crafted.

Other examples of such advisory bodies include arts commissions, human rights commissions, cultural heritage commissions, parks and recreation commissions, waste advisory commissions, zoning boards, youth commissions, and civil service commissions.

Typically a county or city resolution or ordinance creates the board or commission, defines its authority, and specifies the manner in which its decisions may be reviewed. In some charter counties and cities, the charter may provide for certain commissions. State law requires cities and counties to have a list of boards and commissions available for public information and review.<sup>2</sup> These boards and commissions are required to follow the same open-meeting laws required of elected decision-making bodies. (See page 26 on open meeting laws.)

When a board or commission is authorized to make administrative decisions, their task is to apply the standards and criteria established by ordinance or resolution for the exercise of such administrative authority. For example, in order to grant a discretionary approval such as a conditional use permit, the board or commission must find that the application conforms to all required standards and criteria, such as standards for noise, parking or hours of operation. The ordinance or resolution may also include provisions for appealing decisions of the board or commission to the governing body.





## Local Agency Staff

Public agency staff members play a number of roles. Agency staff:

- analyze options for decision-makers, including how proposals stack up against currently adopted policies and standards;
- make professional recommendation on matters brought to elected officials;
- implement programs and provides services to the public approved by the decision-making bodies;
- suggest new policies or programs or how existing policies or programs can be improved or operated more effectively;
- make administrative decisions for the agency based on adopted legislative policies and direction;
- maintain an accurate record of proceedings and actions of the public agency; and
- determine financial impacts of all policy options available.

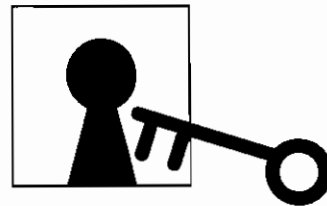
Staff members are an important resource to both the public agency and the community that the staff serves. Particularly valuable are staff members who are willing to speak up to keep the agency from making mistakes or falling short of the public's expectations. Many bring significant policy, technical, program area, or management expertise to their work in service to the public. Many of these individuals spend all or most of their careers working for public agencies, and thus are often deeply committed to serving the public.

The table on page 21 lists common staff positions, along with websites that provide more information on what these professional roles involve.

# The Local Government Decision-Making Process – Key Things to Know

It is unusual for one individual to have sole decision-making authority within a public agency. By definition, boards of supervisors, city councils, school boards and special district boards are collective decision-making bodies. That means decisions are typically made by groups, not by individuals. A key task for an elected official, then, is to build consensus for proposals and positions among colleagues and others. However, trading votes is illegal.

Even elected department heads, such as district attorneys, sheriffs, city treasurers, city clerks, city attorneys, assessors and others, must work with others to ensure that funding for their departments is included in their agency's budget. And, of course, these elected officials represent the same communities.



## Decision-Making at Meetings

Because of the state open meeting laws, virtually all of the conversations among a quorum of members of city councils, boards of supervisors and special district boards occur at public meetings. This is also true for certain committees, commissions, and boards created by these governing bodies. The law strictly limits the circumstances under which conversations among elected and appointed officials may occur in private (known as “closed sessions”)

State law also requires prior notice of such meetings and that the agenda must be available for public review before the meeting.



At times, this may seem like a very cumbersome way to make decisions, particularly ones that seem insignificant, non-controversial, or not of great interest to the public. However, it is important to remember the decision-making process is designed with an eye towards balancing a number of competing views. Efficiency and speed are important, but in our democracy, public participation and transparency of government is paramount. The open meeting laws are premised on the notion that transparency and the opportunity for public input are more important than speed.

## The Concept of a Quorum

Because of the often-collective nature of public agency decision-making, the concept of a quorum is important. A quorum is the number of members of a decision-making body who must be present in order for the body to conduct business and make decisions. Typically a quorum is a majority of the decision-making body.

If there are not enough members present – thus, meaning that a quorum is not present – the meeting must adjourn and be rescheduled to a time when a quorum is present. This keeps decisions from being made by too few people. If for some reason a decision-making body makes a decision without a quorum, the decision is legally invalid.

Separate from the issue of whether a quorum is present is the issue of how many votes it takes to approve an action. In some instances, an action requires a specific number of “yes” votes beyond a majority of the quorum in order to be approved. Staff typically alerts decision-makers when this is the case.

Another issue is whether an official, although present, is allowed to participate in the decision. For example, a council member or county supervisor may be at the meeting, but cannot be counted toward the quorum for a particular item because he or she must step aside from the decision-making process due to a disqualifying conflict of interest. (For information about disqualifications and abstentions, please see sidebar at right).

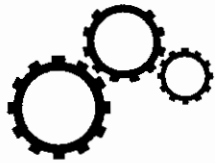
### ► A NOTE ABOUT CONSENT CALENDARS

To expedite meetings and reserve time for matters that need to be discussed, many local agencies have a section on their agendas labeled as the “consent calendar.”

Items on the consent calendar are generally non-controversial items that do not require much, if any, discussion. The consent calendar allows decision-makers to group such items together under one heading and decide them at one time.

Local agencies typically have a procedure for removing an item from the consent calendar for separate discussion. This enables the item to be considered and voted upon separately if discussion is needed or if a decision-maker needs to not vote on that item because of a disqualifying conflict of interest.





## Rules of Procedure

**Why Procedures Help.** Many agencies adopt rules of procedure to guide discussions and decision-making at meetings. The collective nature of public policy decision-making makes necessary a common set of rules and procedures for discussing items and bringing them to a vote. Such rules and procedures facilitate the decision-making process by allowing items of business to be handled and discussed in a smooth and fair manner that everyone understands.

**Sources of Rules.** Robert's Rules of Order is one example of such procedures; Robert's can be a bit formal and technical, however. For this reason, a number of agencies adopt a more streamlined approach that may be easier for both decision-makers and the public to understand and follow. Whatever procedures are used, they are generally adopted by ordinance or resolution of the agency's governing body.

For an online version of Robert's Rules of Order, visit [www.robertsrules.com](http://www.robertsrules.com).

For a less formal set of procedures, see *Rosenberg's Rules of Order: Simple Parliamentary Procedures*

for the 21st Century at [http://www.cacities.org/resource\\_files/22486.ParliamentaryRevised.pdf](http://www.cacities.org/resource_files/22486.ParliamentaryRevised.pdf)

## THE IMPORTANCE OF CIVILITY

Thoughtful people can reasonably disagree about the best way to solve difficult problems. Disagreement is not a bad thing in itself. It can be a healthy element of the decision-making process.



The issue is how disagreement is expressed. The best approach is to focus on the strengths and weaknesses of various approaches. Issues that come before elected bodies to decide upon are rarely simple and without controversy. Figuring out how to resolve those issues in a way that best serves the public involves considering a range of options and perspectives.

The crucial part of civil discourse is to keep the focus on the merits of a given proposal. Another way of putting it is to criticize ideas, not the person advancing the idea.

Civility is closely linked to the ethical value of respect. For more ideas and information about civility in public discourse, visit [www.ca-ilg.org/civility](http://www.ca-ilg.org/civility).

**Basic Procedure.** Generally, the procedure for discussing and resolving an issue at an agency meeting occurs along the following lines:

1. **Item Agendized.** The item is placed on the agenda

Notes:

- An agency's rules of procedure usually say how items get placed on the agenda;
- The state's open meetings laws generally forbid off-agenda items from being discussed and acted upon;

2. **Item Called.** At the appropriate time on the agenda, the presiding official takes up the item for discussion;
3. **Presentation.** An agency staff member or other person presents an overview of the item, together with a recommendation to approve or deny the item;
4. **Questions.** Members of the decision-making body ask any questions of the presenter;
5. **Public Comment.** The presiding official asks whether anyone in the audience wants to comment on this item, giving the public the opportunity to address the item;

Notes:

- To allow everyone time to speak, many agencies have a time limit for each speaker;

- Providing the public with tips on how to frame their comments to be most effective can both reduce the stress factor and maximize the value of public comment (the Institute for Local Government offers such a tip sheet at [www.ca-ilg.org/aboutpublichearings](http://www.ca-ilg.org/aboutpublichearings));

6. **Discussion.** Members of the decision-making body discuss the item

Notes:

- There may be a motion to discuss;
- If a member of the decision-making body wishes to suggest a change to the item (for example, an ordinance under discussion for adoption), he or she proposes the change, which the body then discusses;

7. **Motion.** A member of the decision-making body makes a motion to approve or deny the item;
8. **Second.** Another member of the decision-making body "seconds" the motion;
9. **Vote.** The body votes; and
10. **Announcement.** The presiding official or agency clerk announces the result of the vote.

Staff then typically follows up, taking the steps necessary to implement the action.



## The Special Nature of Public Hearings

Public hearings are formalized opportunities to present information to a decision-making body. By law, certain types of decisions, such as the issuance or denial of a development permit or zoning code amendments, require public hearings.

The formal nature of the public hearing process guarantees that the fundamentals of due process are incorporated into the decision-making process. This includes the right to know that the item is on the agenda (the right to notice) and the opportunity to be heard on the matter.

**Notice.** Local agencies must typically give more advance notice of a public hearing than regular meetings.<sup>3</sup> Sometimes these notices must be published in local newspapers or must be posted at the location of the hearing;

sometimes the notices must be mailed to interested individuals, including those that may live close by a proposed project. Notices may also be available on local agency websites.

### **More Emphasis on Evidence and Making a Decision-Making Record.**

A public hearing involving a specific project generally involves an emphasis on providing “evidence” or information provided to decision-makers to support one point of view or another. Principles of fairness require that all sides having an opinion on an issue be allowed an opportunity to present information supporting their position to the decision-makers. Much of the information upon which the decision will be based is presented at the hearing.



- **Listen.** Decision-makers should be present and attentive during the hearing in order to receive, review, and understand the information presented and to ask questions of the persons presenting the information.
- **Information Offered Prior to the Hearing.** Sometimes people will want to give decision-makers information before the public hearing. The best approach is to encourage those who want to share such information to present it at the public hearing so all of the decision-makers can benefit from the information. This also allows others to present contrary information.

- **Knowledge Gained Outside the Hearing.** Sometimes a decision-maker has personal knowledge and information about the issue. If so, the decision-maker should share that information with his/her colleagues during the meeting and provide the public an opportunity to comment on that information. Otherwise fair process or “due process” problems may arise.

**For More Information...**

See *Fair Process Requirements in Adjudicative Decision-Making* at [www.ca-ilg.org/everydayethics](http://www.ca-ilg.org/everydayethics).

**Findings.** In complicated matters or when legally required, a decision-making body will typically adopt “findings” that explain to a project proponent, the public, and ultimately the courts (if a lawsuit occurs), why the decision-making body made the decision it did.

Findings draw connections between the information the public agency has (the record at the public hearing), the standards the agency applied, and the decision ultimately made. Put another way, a finding is a specific, written factual explanation relating to the reason for approving or denying the item before the decision-making body.

#### **For More Information...**

On encouraging informed participation in public hearings, see:

- *Getting the Most Out of Public Hearings: Ideas to Improve Public Involvement* (2005), [www.ca-ilg.org/publichearings](http://www.ca-ilg.org/publichearings).
- *Land Use One-Pagers* (2007) (a series of “plain English” descriptions of common land use decisions that public agencies can attach to public hearing notices; the reverse offers tips on how to participate in the hearing—also available in Spanish), [www.ca-ilg.org/onepaggers](http://www.ca-ilg.org/onepaggers).

On designing decision-making procedures to minimize the likelihood of lawsuits, see:

- *An Ounce of Prevention: Best Practices for Making Informed Land Use Decisions* (2006), [www.ca-ilg.org/ounce](http://www.ca-ilg.org/ounce).

# Different Types of Actions

## Ordinances

Local agencies make local laws through ordinances. Ordinances typically require or prohibit certain actions under certain circumstances. A local agency's ordinances are frequently indexed and recorded into a "code." These codes become part of the city or county's legislative history and may prove useful even many years after adopted. As access to technology improves, many local agencies publish and/or make their codes available online.

**Drafting.** Typically, an agency's staff, along with the help or oversight of the agency's attorney, will prepare a preliminary ordinance for review by the decision-making body and the public. This also enables staff to be aware of and help the agency comply with any special notice requirements that may apply to that particular kind of ordinance.

**Timing Issues.** There is usually a waiting period between the time the ordinance is first considered by that body (known as the "introduction" of the ordinance) and second or final presentation of the ordinance during which it is considered by the governing body for adoption. This introduction process is also known as the first

"reading" of the proposed ordinance, because it is the first opportunity decision-makers have to consider the merits of the proposed ordinance. In some limited circumstances, urgency and certain other types of ordinances can be adopted at the time of their introduction without going through a later waiting period.

**Making Revisions during the Adoption Process.** Sometimes decision-makers will ask staff to revise the proposed ordinance. Such changes may respond to ideas or concerns expressed by decision-makers or the public; changes may also result in language that a majority of the decision-making body can support. If substantive changes are made to a proposed ordinance after it is first introduced, it generally will need to be re-introduced and another waiting period must pass before the modified ordinance can be adopted. These steps both ensure that laws are drafted as carefully as possible and that a full and open review of the ordinance occurs that permits the public to review and comment on the proposed law prior to its approval.





**Adoption.** After the initial “reading” and waiting period have occurred, the ordinance is then presented at a subsequent meeting for second reading. A member of the decision-making body moves for approval of the ordinance. If the motion receives a second, the body votes on whether to adopt the ordinance.

**Effective Date.** Most ordinances are effective 30 days after the date of adoption. Staff will typically take care of any requirements for publicizing the ordinance’s adoption during this period (for example, by publishing the ordinance in a newspaper and adding the ordinance to the agency’s code).

## Resolutions

A resolution is a legal action by a decision-making body, such as setting fees and adopting policies. It can also be a vehicle through which the body expresses its opinion on a matter.

Resolutions are formal actions by the decision-making body and are retained as part of the agency’s record. Compared to ordinances, though, resolutions involve fewer procedural requirements. For example, they do not have to be

“introduced” and “adopted” over the space of two meetings but may be adopted at one meeting. Furthermore, with limited exceptions (for example, setting tax rates), resolutions do not have to be published in a newspaper.

## Motions and Minute Orders

Local agencies do not always have to adopt an ordinance or resolution to take action. For less important actions, local agencies also may act by motion, which may be summarized in a minute order. Typically, the agenda materials will describe the action that is proposed to be taken.

These actions, along with others at the meeting, are memorialized in the record of the meeting (the minutes). Once approved by the body, the minutes become the official record of the meeting. The agency’s secretary or clerk maintains the official records of the agency, including the minutes.

## Initiative and Referendum

In California, the public also plays a role in the decision-making process by voting on ballot

measures. The rules relating to placing matters on the ballot are both complex and technical. Ballot measure proponents are well advised to seek advice from experienced attorneys and political consultants on these matters to avoid missteps.

**Referendum.** If members of the community disagree with a legislative act approved by elected officials, then they can circulate a petition to put the matter on the ballot for the voters to decide whether the law should be repealed. This is called a “referendum” because the petition requires the matter to be *referred* to the voters for approval. The petition process must occur within a short window of time before the law goes into effect.



When a successful referendum petition occurs, a governing body has two choices. It can repeal the law that is the subject of the referendum petition. If the repeal occurs, it becomes unnecessary for the matter to go to a community vote. Otherwise the body must put the matter on a ballot for a vote.

**Initiative.** The public may also propose a new law (or an amendment to an existing law). To do that, they circulate petitions that must include a copy of the proposed law. If enough people sign the petition, the governing body must either adopt the proposed law without change or put the matter on the ballot for a community vote. This process is known as the “initiative” process, because members of the community are initiating the legislative proposal.



## Decisions to Spend Money

Perhaps one of the most important roles elected officials play is deciding how to allocate public funds to pay for necessary services and facilities. There are a number of steps in this process.

**Budget.** A budget is a device that enables decision-makers to project what revenues will be available to fund services and facilities and how those revenues should be allocated and spent. The decision to spend money for particular purposes is an “appropriation,” which is an authorization to spend money consistent with the budget.

Typically the budgeting process involves:

- The administrative head of the agency (county executive officer, city manager or general manager of a special district) prepares and transmits a set of instructions to department heads for submitting budget information and requests;
- Department heads prepare and submit their budget information and requests;
- The administrative head reviews the requests and assembles them into a comprehensive budget document;

- The decision-making body holds budget hearings at which elected officials and the public receive information about the proposed budget;
- Elected officials receive public input/reactions to the proposed budget;
- Elected officials evaluate all the information received and revise (as necessary) and adopt the final budget;
- The administrative head of the agency (typically the city manager, county executive officer, city manager or district manager) is responsible for implementing and executing the budget.

*(Note that the budget includes decisions about money that don't involve "spending" per se, such as saving for capital projects, and allocated and unallocated reserves.)*

**For More Information...**

See *Financial Management for Public Officials*, [www.ca-ilg.org/financeguide](http://www.ca-ilg.org/financeguide).





**Expenditures.** The agency then spends money throughout the year in a manner consistent with the adopted budget, which may include expenditures to satisfy contractual obligations (for example, labor agreements, and contracts for goods or services). Some expenditures, such as election costs related to an initiative, referendum or recall may not be budgeted for, but may be a required expenditure directed by the public through the signature gathering process.

**Warrants.** These are specific authorizations to spend money from a local agency's bank account. To avoid having to take every minor payment to the decision-making body for approval, some agencies have policies delegating authority to staff to authorize payment for budgeted expenditures up to certain amounts.

**For More Information...**

For more information about how cities and counties are funded, see the Institute for Local Government's publication *Understanding the Basics of County and City Revenues* (2008), at [www.ca-ilg.org/revenuebasics](http://www.ca-ilg.org/revenuebasics).